

## **REMARKS**

In view of the following remarks, Applicant respectfully requests reconsideration and allowance of the subject application. Claims 14, 24, 36, and 45 are amended herein. Claims 14, 16-24, 26-33, 36, and 38-53 remain  
5 pending.

### **Examiner Interview dated 2/10/09**

Applicant would like to thank Examiner Pinheiro and Primary Examiner Robert Pezzuto for their time in discussing this application over the phone on  
10 February 10, 2009.

During this interview, the § 103 rejections based on Van Ryzin, Shih, and THPS2 were discussed. In view of the discussion during the interview, Applicant has made some clarifying amendments to various independent claims. Accordingly, although an agreement was not specifically reached, the Examiners  
15 indicated that the proposed clarifications would appear to distinguish the cited references. Applicant believes that the pending claims, as amended, are in condition for allowance. Additionally, the Examiner indicated that the undersigned would be contacted after the Examiner conducted an updated search in order to advance prosecution and resolve any remaining issues that would  
20 prevent the allowance of the application.

### **Rejections under § 103**

Claims 14, 16-24, 26-33, 36, and 38-44 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,393,430 to Van Ryzin (“Van Ryzin”), in view of U.S. Publication No. 2003/0227473 to Shih et al. (“Shih”).

Claims 45-53 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Van Ryzin in view of Shih and in further view of Tony Hawk Pro Skater 2 for Playstation (“THPS2”). Applicant respectfully disagrees.

Nevertheless, in the interest of expediting allowance of the subject application and without conceding the propriety of the rejection, claims 14, 24, 36, and 45 are amended.

### **The Claims**

**Claim 14** as amended recites a method, implemented in a game console, the method comprising [emphasis added]:

- obtaining an audio track from an audio source;
- saving the audio track on a storage device of the game console so that a copy of the audio track is available when the audio source is no longer accessible to the game console, wherein the audio track is at least part of a user-created soundtrack;
- saving an identifier of the audio source on the storage device;

- *after saving the audio track, determining when an online service that provides a database containing meta data associated with the audio track is available,*
- *connecting to the online service, obtaining the meta data associated with the audio track from the database and storing the meta data associated with the audio track on the storage device, wherein the meta data is obtained from the online service based at least in part on the identifier saved on a the storage device;*
- associating the user-created soundtrack with a game application;
- executing the game application on the game console; and
- during execution of the game application, playing the user-created soundtrack and displaying information regarding the soundtrack based on the meta data.

Support for the amendment to this claim can be found throughout Applicant's specification including, for example, page 31, lines 8-21 and page 32, lines 1-25. In making out the rejection of this claim, the Office argues that Van Ryzin teaches "obtaining an audio track from an audio source; saving an identifier of the audio source on the storage device; and determining when an online service that provides a database containing meta data associated with the audio track is available, connecting to the online service, obtaining the metadata associated with the audio track from the database and storing metadata associated with the audio track on the storage device, wherein the meta data is obtained from the online service based on at least in part on the identifier saved on the storage device." (See Office Action, page 2). Applicant respectfully disagrees with the Office's rejection.

Van Ryzin instructs that “the user may obtain tracks to be recorded from the Internet” (col. 5, lines 24-25). Further, the Office cites Van Ryzin as teaching:

5 First, the Block 50, the PC software creates a local database on the PC’s hard drive of the collection of tracks which are available to the user and from which the custom playlist may be created. Track information from a source medium is copied to the PC storage, the hard drive of the computer. The software reads the raw track data from the storage medium (CD), compresses it, and writes it to the PC hard drive. (Col. 5, lines 34-40).

10 Moreover, Van Ryzin further instructs that “when the user indicates the custom playlist is to be recorded, the track information stored in the PC hard drive is decompressed and written to the recording device.” (See col. 5, lines 48-51).

Additionally, Van Ryzin instructs at col. 4, lines 8-13:

15 [B]efore or during the user’s creation of a custom playlist, the software creates a local database on the PC’s hard drive that represents the user’s music collection. This is done using a CD’s TOC as an index to a CD title and track text database that is shipped with the software. The database has the title and track names of the current CDs in the marketplace. When a new CD is used, this text information will be written from the ‘text entry’ field on a music CD contained in the PC CD-ROM drive.

20 The above excerpt teaches that track information is obtained and copied to the hard drive at the time of the creation of the local database, where the tracks in the user’s music collection are also copied. This provides the ability to record the tracks to a storage medium coupled with the associated track information. In addition, Van Ryzin teaches that in the event that “this CD is not in the database

and is not “text ready,” the user can manually type in the title and track names.”  
(Col. 6, lines 19-23).

In direct contrast, claim 14 recites

- *after saving the audio track, determining when an online service that provides a database containing meta data associated with the audio track is available,*
- *connecting to the online service, obtaining the meta data associated with the audio track from the database and storing the meta data associated with the audio track on the storage device, wherein the meta data is obtained from the online service based at least in part on the identifier saved on a the storage device;*

Van Ryzin fails to disclose or suggest “*after saving the audio track, determining when an online service that provides a database containing meta data associated with the audio track is available, connecting to the online service, obtaining the metadata associated with the audio track from the database and storing the metadata associated with the audio track on the storage device*,” wherein the metadata is obtained from the online service based at least in part on the identifier saved on the storage device” as recited in claim 14 (emphasis added). More particularly, only metadata associated with the audio track is obtained from an online service, but it is not obtained until “*after saving the audio track*” and connecting to the online service.

Van Ryzin fails to teach or suggest this feature and, in point of fact, teaches directly away from any such notion. Further, Paternostro and THPS2 fail to

correct the deficiency of Van Ryzin. Accordingly, claim 14 is allowable and the § 103 rejection is respectfully requested to be withdrawn.

**Dependent claims 16-23** depend from claim 14 and are allowable as depending from an allowable base claim and for their own recited features which are neither shown nor described in the references of record.

**Claim 24** recites a computer-readable medium for a game console comprising computer-executable instructions that, when executed, direct the game console to [emphasis added]:

- obtain an audio track from an audio source;
- save the audio track to a storage device of the game console so that a copy of the audio track is available when the audio source is no longer accessible to the game console, wherein the audio track is at least part of a user-selected soundtrack;
- save an identifier of the audio source and the audio track;
- *after the audio track is saved, determine when an online service that provides a database containing meta data associated with the audio track is available,*
- *connect to the online service when the online service is available, obtain the meta data associated with the audio track from the database and store the meta data associated with the audio track, wherein the meta data is obtained from the online service based at least in part on the identifier saved on a storage device;*
- associating the user-selected soundtrack with a game application;
- executing the game application in the game console; and
- during execution of the game application playing the user-created soundtrack and displaying information regarding the soundtrack based on the meta data.

Support for this amendment can be found throughout Applicant's specification including, for example, page 31, lines 8-21 and page 32, lines 1-25.

In making out the rejection of this claim, the Office makes the same argument as it did with respect to claim 14. Applicant respectfully disagrees with the Office's rejection. Applicant respectfully submits that none of the references disclose or suggest the subject matter highlighted above.

5 Accordingly, claim 24 is allowable and the § 103 rejection is respectfully requested to be withdrawn.

**Dependent claims 26-33** depend from claim 24 and are allowable as depending from an allowable base claim and for their own recited features which are neither shown nor described in the references of record.

10 **Claim 36** recites a method, implemented in a game console, the method comprising [emphasis added]:

- copying an audio track from an audio source to a storage device of the game console, wherein the audio track is at least part of a user-selected soundtrack;
- 15 • *after copying the audio track*, using an identifier of the audio source to retrieve meta data associated with the audio track from a database over a network connection from an online service when the database is accessible;
- 20 • saving the identifier of the audio source on the game console when the database is not accessible and *using the saved identifier to retrieve meta data associated with the audio track from the online service when the database is subsequently available*;
- associating the user-selected soundtrack with a game application;
- executing the game application in the game console; and
- 25 • during execution of the game application playing the user-created soundtrack and displaying information regarding the soundtrack based on the meta data.

In making out the rejection of this claim, the Office failed to address every element of this claim. Specifically, the Office failed to address *“using the saved identifier to retrieve meta data associated with the audio track from the online service when the database is subsequently available”* as recited in claim 36.

5 Notwithstanding, Applicant has amended this claim as indicated above.

Applicant respectfully submits that none of the references teach, describe, or suggest the subject matter of this claim. Accordingly, claim 36 is allowable and the § 103 rejection is respectfully requested to be withdrawn.

**Dependent claims 38-44** depend from claim 36 and are allowable as  
10 depending from an allowable base claim and for their own recited features which are neither shown nor described in the references of record.

**Claim 45** recites a computer-readable medium for a game console comprising computer-executable instructions that, when executed, direct the game console to [emphasis added]:

- 15
- copy an audio track from an audio source to a storage device of the game console, wherein the audio track is at least part of a user-created soundtrack;
  - *after having copied the audio track, use an identifier of the audio source to retrieve meta data associated with the audio track from a database over a network connection from an online service if the*  
20 *database is accessible;*
  - save the identifier of the audio source on the game console if the database is not accessible;
  - executing a game application on the game console;



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- pausing execution of the game application in response to receiving a request to select a new soundtrack to playback during execution of the game application; and
- displaying information regarding the user-created soundtrack based on the meta data to assist a user in selecting the new soundtrack.

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Support for this amendment can be found throughout Applicant's specification including, for example, page 32, lines 1-25. In making out the rejection of this claim, the Office argues that Van Ryzin, in combination with Shih and THPS2, teach the subject matter as claimed in claim 45. Applicant respectfully disagrees with the Office's assertion.

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Claim 45 has been amended to clarify that meta data associated with the audio track is retrieved after having copied the audio track. As discussed during the interview, the references of record fail to teach, disclose, or suggest such a feature.

Accordingly, claim 45 is allowable and the § 103 rejection is respectfully requested to be withdrawn.

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**Dependent claims 46-53** depend from claim 45 and are allowable as depending from an allowable base claim and for their own recited features which are neither shown nor described in the references of record.

**Conclusion**

The Application is in condition for allowance and the Applicant respectfully requests reconsideration and issuance of the present application. Should any issue remain that prevents immediate issuance of the application, the Examiner is requested to contact the undersigned attorney to discuss the unresolved issue.

Respectfully submitted,

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